

VIII. Closing of Cases and Reference of
Judgments for Further Collection Activity

A. When and Where

A case should be closed as uncollectible in the Tax Division and the judgment referred to the IRS or the United States Attorney for further collection efforts where the initial collection activity reveals no assets which may be currently and/or readily collected by the Tax Division. At the time the case is closed, the judgment should ordinarily be referred to the IRS for further collection efforts. The trial section may, however, refer a judgment to the United States Attorney for collection where the United States Attorney has established procedures likely to assure collection.

B. Steps to Refer the Judgment to the IRS

When closing the case, IRS Special Procedures should be advised that the judgment appears not to be currently and/or readily collectible by the Tax Division and that the Tax Division is closing its file on the case. Special Procedures should be requested to:

- (1) Freeze the taxpayer's account to ensure that any overpayments of tax are credited to the judgment liability;
- (2) Levy on income or assets that are located, such as, for example, serving a continuing levy on wages;
- (3) Notify the Tax Division if assets or income need to be reached by a foreclosure action, a suit to set aside a fraudulent conveyance, or other litigation;
- (4) Refile the notice of tax lien, as appropriate;
- (5) Request the United States Attorney to extend the judgment lien, as appropriate;
- (6) Conduct investigations, as appropriate, to determine if any sources exist for satisfying the judgment; and
- (7) Ensure that the federal judgment lien has been perfected on real property of the debtor by filing an abstract of the judgment wherever real property of the debtor is located.

A sample letter to Special Procedures is attached as Exhibit 35. A list of mailing addresses and telephone numbers for Special Procedures offices is attached as Exhibit 33.

When referring the judgment to the IRS, the trial attorney also should advise Special Procedures of any special circumstances, such as those listed below, and should ask Special Procedures to monitor or investigate and take appropriate action:

- (1) If the taxpayer is a defunct corporation without assets, an IRS investigation of transferee liability may be appropriate and may be requested concurrently with the referral, if a prior request has not been made;
- (2) If the taxpayer has died, and the estate was closed without assets, an IRS investigation of possible assets or transferee liability may be appropriate and may be requested concurrently with the referral, if a prior request has not been made;
- (3) If the taxpayer's whereabouts are unknown, despite a search, or the taxpayer has left the country, then, concurrently with the referral, the IRS should be given any information which will assist it in locating the taxpayer or the taxpayer's assets. The Immigration and Naturalization Service can be requested to institute a border check for the return of the taxpayer. A form of letter to the Immigration and Naturalization Service is attached as Exhibit 12;
- (4) If the taxpayer has pauperized himself or herself, will not work for wages, own property, hold a bank account, etc.;
- (5) If the taxpayer is imprisoned for a long period and investigation has revealed no assets;
- (6) If the taxpayer has a possibility of inheritance or survivorship of a joint tenancy or tenancy by the entirety; or
- (7) If the taxpayer's financial situation appears likely to improve for any other reason, such as the maturity of dependents, a fresh start after bankruptcy, or an anticipated growth in income or business.

At the time the case is closed, the United States Attorney should be advised that the judgment does not appear to be

currently and/or readily collectible by the Tax Division, the Tax Division is closing its file on the case, and the judgment is being formally referred to the IRS for further collection efforts.

A sample letter to the United States Attorney is attached as Exhibit 36.

C. Steps to Refer the Judgment
to the United States Attorney

Where the decision is made to refer the judgment to the United States Attorney the steps set forth above for referring a judgment to the IRS should be reviewed and followed in a modified form as appropriate. Moreover, the United States Attorney should be advised, with concurrent advice to the IRS, that:

- (1) The Tax Division is closing its file on the case and the judgment is being formally referred to that office for further collection efforts;
- (2) The IRS has been asked to advise the United States Attorney of the existence of any assets, and to send the United States Attorney annually a copy of the Investigation Report of Judgment Debtor (Form 3347);
- (3) The IRS has been asked to advise the Tax Division if litigation is necessary to effect collection of the judgment, and we may elect to conduct the litigation; and
- (4) The United States Attorney should advise the Tax Division if there are any problems as to which we might help, including any differences of view that might arise between that office and the IRS.

A sample letter to the United States Attorney is attached as Exhibit 37. A sample letter to the IRS is attached as Exhibit 38.

When all of these procedures have been accomplished, the Tax Division's responsibility for judgment collection has been met.